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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,435	12/11/2000	Amir Ben-Efraim	M-9389 US	1861
32794	7590	04/14/2004	EXAMINER	
KOESTNER BERTANI LLP 18662 MACARTHUR BLVD SUITE 400 IRVINE, CA 92612			NGUYEN, LEE	
			ART UNIT	PAPER NUMBER
			2682	
			DATE MAILED: 04/14/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,435

Applicant(s)

BEN-EFRAIM ET AL.

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 11-14, 18, 20-27, 31-42 and 52-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-10, 15-17, 19, 28-30 and 43-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the communication filed 2/6/2004.

Election/Restrictions

2. Claims 2-5, 11-14, 18, 20-27, 31-42, and 52-58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species and subcombinations, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

The examiner agrees that claims 6, 15-17, 19, and 48-51 are not distinct species and are considered in this office action.

Information Disclosure Statement

The IDS filed 4/23/2001 has been considered and recorded in the file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 6-10, 15-17, 19, 28-30, 43-44, and 46-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Guedalia et al. (US 2001/0043684).

Regarding claim 1, Guedalia teaches a method of interfacing to a user, the method comprising: using a data connection to receive a plurality of descriptions of audio contents ([0013], [0138-0140]); receiving from the user a selection of a first description from among the plurality of descriptions [0141]; and placing a voice call to play a first audio content described by the first description in response to the selection [0141].

Regarding claim 6, Guedalia also teaches using the selection of first description identified by the data connection to play the audio content during the voice call [0013].

Regarding claim 7, Guedalia further teaches that each of the data connection and the voice call are respectively formed with a first logic and a second logic; and the method includes the first logic providing information about the user to the second logic [0141].

Regarding claim 8, Guedalia also teaches that the information being provided includes an identifier of an audio content currently described to the user [0152-0153].

Regarding claim 9, Guedalia also teaches receiving a plurality of calls from a corresponding plurality of users; and matching the audio content to be played with a call, based on an identifier obtained from a wireless handset of the user (see fig. 1, numerals 108, 110).

Regarding claim 10, Guedalia also teaches retrieving each of the audio contents from the Internet [0013].

Regarding claim 15, Guedalia also teaches terminating the voice call on completion of playing of the first audio content [0158].

Regarding claim 16, Guedalia also teaches that the data connection is suspended during the voice call [0013].

Regarding claim 17, Guedalia also teaches that each description is different from another description [0152].

Regarding claim 19, Guedalia also teaches that said placing of voice call is performed automatically in response to said selection of first description [0014].

Regarding claim 28, Guedalia teaches a method of interfacing to a user, the method comprising; using a data connection to receive a description of an audio content ([0013], [0138-0140]); receiving from the user a command to play the audio content [0141]; and placing a voice call to play the audio content in response to the command [0141].

Regarding claim 29, Guedalia also teaches that each of the data connection and the voice call are respectively formed with a first logic and a second logic; and the method includes the first logic providing information about the user to the second logic [0141].

Regarding claim 30, Guedalia also teaches that the information being provided includes an identifier of an audio content currently described to the user [0152-0153].

Regarding claims 43 and 50-51, Guedalia teaches a method of interfacing to a user which inherently uses a computer readable storage medium encoded with instructions, the method comprising: using a data connection to receive a number of descriptions of audio content ([0013], [0138-0140]); displaying the descriptions to the user [0013]; receiving from the user a command to play one of the audio contents described

by the descriptions [0013]; placing a voice call in response to the command [0013]; playing said audio content to the user during the voice call; and returning to using the data connection in response to completion of the voice call [0158].

Regarding claim 44, Guedalia also teaches using an available telephone number to generate an instruction for said placing of voice call [0126].

Regarding claim 46, Guedalia also teaches identifying the user on receipt of said voice call; and using identity of the user on receipt of said voice call to identify said audio content for said playing [0141].

Regarding claim 47, Guedalia also teaches displaying to the user a plurality of categories of audio contents; and receiving from the user a selection of a category prior to said using of data connection [0013].

Regarding claims 48-49, Guedalia also teaches that at least one of said categories relates to news; and each description in said plurality identifies news service; displaying to the user a plurality of subcategories of audio content; receiving from the user a selection of a subcategory prior to said using of data connection; wherein each subcategory relates to a news

service and each description relates to a headline of a news story ([0014], [0150]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).


7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guedalia et al. in view of Kaufman (US6,654,367).

Regarding claim 45, Guedalia fails to teach forming an association between said telephone number and said audio content; and using said association on receipt of said voice call at said telephone number in identifying said audio content for said playing. The art of forming an association between said telephone number and said audio content; and using said association on receipt of said voice call at said telephone number in identifying said audio content for said playing is conventionally well known, as taught by Kaufman in column 3, lines 45-48. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kaufman to the system of Guedalia in order to easily recognize the audio source.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/9/04
LEE NGUYEN
Primary Examiner
Art Unit 2682